

**Formation of a study group to curb
recurring litigations in School
Education Department.**

**Government of Maharashtra
School Education and Sport Department
Government Resolution No. MIS 2021/C.R.21/21/Coordination
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai- 400 032
Date – 26th April, 2021**

Read – The Order of Hon’ble Bombay High Court, Mumbai dated 01.04.2021 delivered in WP 4511/2019 with other petitions.

Preamble:-

The teaching and non-teaching staff working with various Government and Private Educational institutions (aided and/or unaided and/or partly-aided) raise various issues relating to their employment, service conditions etc. It is observed that more often than not, these issues are common to most of similarly situated employees.

Many such issues reach Hon’ble Courts, including the Hon’ble High Court and the Supreme Court, from time to time for adjudication. Particularly in case of Hon’ble Bombay High Court, it is experienced that many such issues come up for consideration, almost simultaneously, before its Hon’ble Benches situated at Aurangabad and Nagpur, in addition to its principal seat at Mumbai. The Government Pleader representing the State and in turn the School Education Department’s officers, in each such case is usually not the same. On many occasions it is observed that there is lack of coordination amongst the officers of the Department giving instructions to such Government Pleaders and resultantly, such submissions are made on behalf the State Government by such Government Pleaders in similar matters, which are substantially inconsistent. As a necessary consequence of such lack of coordination as also communication gap, even in similar, if not identical, matters such orders are passed by the Hon’ble Courts that are fundamentally dis-similar, if not conflicting, creating innumerable difficulties in following and/or implementing such orders or directions.

It is also observed that though in respect of many issues the Hon’ble Courts have finally settled the position of law, the officers of the School Education Department take decisions contrary to such position. This happens either because the concerned officers are not aware of such position or because it is felt by the officers that in every such case the Hon’ble Court needs to pass a separate, though similar order.

As a result of these and such other circumstances these employees under consideration are required to initiate repetitive judicial proceedings that ultimately cause grave inconvenience, apart from causing avoidable financial burden, not to only such employees but also the State Government. That apart, it creates

unwarranted and needless litigation adversely affecting even the overall Judicial process.

In view of the aforesaid background, the Hon'ble High Court, Bench at Mumbai has observed vide its order dated 1st Aril 2021 passed in WP 4511/2019 and other petitions thus :

“Once the position of law is laid down by this Court and if the State does not challenge the view taken, there is no reason why the State Government should not issue clarificatory instructions to its officers to bring the position in consonance with the law laid down. That not being done, the Education Authorities keep passing the same orders, which are then challenged in writ petitions which simply annex the impugned order and the orders already passed by this Court and such impugned orders are then set aside following the earlier decisions. Countless petitions keep getting filed on the same subject by the teaching and non-teaching staff with the same result and we are informed that the number at the Principal Seat and the Benches as Nagpur and Aurangabad of such petitions would cross four digits. This is a creation of needless litigation. The teaching and non-teaching staff are forced to come to the Court, spending money and time. Time is also important as the petitioners can invest the same in imparting education for which grants are paid by the State. The money spent on defending such petitions, and, thus, the resultant position is of enormous social and economic costs. Apart from adding to the already crowded docket of this court”.

In the light of the aforesaid and such other aspects of the issue at hand, the Hon. Advocate General has assured the Hon'ble High Court to constitute a “Study Group” to conduct a thorough study *inter-alia* of the aforesaid and such other related and incidental aspects. The Study Group, to be so constituted, is expected to conduct appropriate exercise to spell out the main areas of disputes that have arisen, amongst the aforesaid employees on the one hand and their employers or the concerned authorities of the State Government on the other hand, where parties are constrained to approach the Hon'ble Courts though the subject matter of such disputes is already concluded by the Hon'ble High Court or the Supreme Court.

The aforesaid proposed Study group is also expected to give appropriate suggestions in order to resolve the aforesaid issue(s), particularly as to how such needless and/or avoidable litigation by way of repetitive Court proceedings does not arise in the first place.

In Consonance with the aforesaid, formation of the ‘Study Group’ was under consideration of Government.

Government Resolution:-

The following Study Group is set up in the School Education and Sports Department to *inter-alia* identify the common areas of disputes between the aforesaid employees on the one hand and their employers or the concerned authorities of the State Government on the other hand, where recurring judicial proceedings arise out of issues or controversies that have already been finally concluded by the Judgments and Orders of the Hon'ble High Court or Supreme Court. This Study Group ought to give suggestions as to how this type of litigation does not arise in the first place.

This Study Group will also give suggestions as to how in respect of such common disputes, the State Government and resultantly, the School Education and Sports Department is able to put up a common as also consistent defence in all such matters, before the Hon'ble Courts.

Shri. Imtiyaz Kazi, Joint Secretary, School Education and Sports Department, Mantralaya, Mumbai	Chairman
Shri. Gopal Tungar, Joint Secretary School Education and Sports Department, Mantralaya, Mumbai	Member
Smt. Vandana Vavhul, Deputy Director, Director of Education (Secondary) Office, Pune	Member Secretary
Shri. Sangave, Deputy Director of Education, Mumbai Division, Mumbai	Member
Shri. Shantaram Londhe, Law Officer, Mumbai	Member
Shri. Jadhav, Law Officer, Aurangabad	Member
Smt. Rukhsana, Law Officer, Nagpur	Member
Shri. Shridhar Shintre, Superintendent, Commissioner (Education) Office, Pune	Member
Shri. Asif Patel, A.GP, Appellate Side, Hon'ble High Court, Mumbai	Invitee Member
Smt. Salunke, AGP, Appellate Side, Hon.High Court, Mumbai	Invitee Member
Smt. Deshpande, AGP, Hon.ble High Court, Aurangabad	Invitee Member
Shri. Yavalkar, AGP, Hon.ble High Court, Aurangabad	Invitee Member

2. The Study Group shall work to meet the requirements as addressed by Hon. Advocate General, High Court, Mumbai and submit its suggestions at the earliest.

3. This Government resolution of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference no. for this is 202104261658185121. This order has been signed digitally.

By order and in the name of the Governor of Maharashtra,

(Charushila Chaudhari)
Deputy Secretary
Government of Maharashtra

To,

1. Hon. Advocate General (By letter)
2. Commissioner, Education, Maharashtra State, Pune
3. Director, Primary Education, Maharashtra State, Pune
4. Director, Secondary and Higher Secondary Education, Maharashtra State, Pune
5. All Jt Secretary/ Deputy Secretary/ Under Secretary/ Section Officer, School Education and Sports Department, Mantralaya, Mumbai
6. All members of study group (By name).